

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

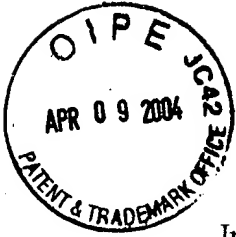
Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

**As rescanning documents *will not* correct images,
please do not report the images to the
Image Problem Mailbox.**

- 1 -

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

| | | |
|---------------------------------|---|---------------------------|
| In re Application of: | : | Before the Examiner: |
| David B. Kumhyr | : | Mary Cheung |
| Serial No. : 09/731,628 | : | Group Art Unit: 3621 |
| Filed: December 7, 2000 | : | |
| Title: USE OF PERSONA OBJECT IN | : | Intellectual Property Law |
| ELECTRONIC TRANSACTIONS | : | IBM Corporation |
| | : | 11400 Burnet Road |
| | : | Austin, Texas 78758 |

April 6, 2004

REPLY BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


RECEIVED
APR 14 2004
GROUP 3600

Dear Sir:

This Reply Brief is being submitted in response to the Examiner's Answer dated March 3, 2004 (Paper No. 11), with a two-month statutory period for response set to expire on May 3, 2004.

CERTIFICATION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 6, 2004.



Signature

Serena Beller

(Printed name of person certifying)

I. RESPONSE TO EXAMINER'S ARGUMENTS

A. Claims 1, 13 and 25 are not anticipated by Koeppel.

Appellant respectfully asserts that Koeppel does not disclose "selecting a persona facet by a user, wherein said persona facet selected comprises a user selectable information selected by the user to be exposed in said electronic transaction" as recited in claim 1 and similarly in claims 13 and 25. The Examiner cites column 11, lines 34-41 of Koeppel as disclosing the above-cited claim limitation. Paper No. 11, page 6. The Examiner further states that "[a] persona facet may be characterized as a facet of an object representing a facet of an individual's personalities, traits or interests." Paper No. 11, page 6. As understood by the Appellant, the Examiner then asserts that the link selections that a user makes on a web page to link to other web pages, as taught in Koeppel, discloses user selectable information selected by a user to be exposed in an electronic transaction where a persona facet comprises such user selectable information. Paper No. 11, page 6. Appellant respectfully traverses. The Examiner has not provided any evidence to support the assertion that making link selections, as taught in Koeppel, discloses user selectable information selected by the user to be exposed in an electronic transaction. Neither has the Examiner provided any evidence to support the assertion that making link selections discloses a facet of an object. The Examiner must provide a basis in fact and/or technical reasoning to assert that making link selections on a web page to other web pages discloses user selectable information selected by a user to be exposed in an electronic transaction. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

Further, as understood by the Appellant, the Examiner asserts that web browsing represents the user's interest or a persona facet. Paper No. 11, pages 6-7. Again, the Examiner is concluding that web browsing is by definition a persona facet that comprises selectable information selected by the user to be exposed in an electronic transaction without providing any basis in fact and/or technical reasoning. The Examiner must provide a basis in fact and/or technical reasoning to assert that web browsing is a persona facet that comprises selectable information selected by the user to be exposed in an

electronic transaction. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). As the Examiner pointed out, in one embodiment, a persona facet may be characterized as an object representing various facets of an individual's personalities, traits or interests. Specification, page 1, lines 7-9. The Examiner has not cited to any element or passage in Koeppel that discloses an object. Further, the Examiner has not cited to any element or passage in Koeppel that discloses an object that comprises selectable information selected by the user to be exposed in an electronic transaction. Therefore, Koeppel does not disclose all of the limitations of claims 1, 13 and 25, and thus Koeppel does not anticipate claims 1, 13 and 25. M.P.E.P. §2131.

Appellant further asserts that Koeppel does not disclose "receiving information about said user stored in a database from said web site if said web site recognizes said persona facet" as recited in claim 1 and similarly in claims 13 and 25. The Examiner cites column 12, lines 1-41 of Koeppel as disclosing the above-cited claim limitation as well as asserts that "the web site has to recognize the persona facet in order to realize the persona facet is up to the threshold, and forward the collected data to a corresponding analyzer for determining if any adjustment should be made." Paper No. 11, page 7. Appellant respectfully traverses and asserts that Koeppel instead discloses monitoring and storing user initiated events such as browsing through a web page, mouse movements, screen scrolling and linking to other web pages in a client side data store. Koeppel further discloses that upon a trigger event, e.g., client side data store being filled up to a threshold limit, the information stored in the client store data is transmitted to the web server. There is no language in the cited passage as to whether a web site recognizes an object that comprises selectable information selected by the user to be exposed in an electronic transaction. The Examiner simply concludes that a web site has to recognize the persona facet in order to realize the persona facet is up to a threshold without providing any basis in fact and/or technical reasoning. The Examiner must provide a basis in fact and/or technical reasoning to assert that Koeppel discloses a web site recognizes an object that comprises selectable information selected by the user to be exposed in an electronic transaction. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat.

App. & Inter. 1990). Further, the Examiner must provide a basis in fact and/or technical reasoning to assert that Koeppel discloses receiving information about the user stored in a database from the web site if the web site recognizes the persona facet. *Id.* Therefore, Koeppel does not disclose all of the limitations of claims 1, 13 and 25, and thus Koeppel does not anticipate claims 1, 13 and 25. M.P.E.P. §2131.

B. Claims 2, 14 and 26 are not anticipated by Koeppel.

Appellant respectfully asserts that Koeppel does not disclose "comparing said user selectable information in said persona facet with said received information from said web site" as recited in claim 2 and similarly in claims 14 and 26. The Examiner cites column 12, lines 41-60 of Koeppel as disclosing the above-cited claim limitation. Paper No. 11, page 7. Appellant respectfully traverses and asserts that Koeppel instead discloses that the analysis may include correlating predetermined threshold values with the user response data. Koeppel further discloses that if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the "in-view" features of the user response collection operations performed by the client side scripts, that may indicate that the user was viewing the content for that certain time frame. The Examiner further states that a particular content viewed by a user discloses user selectable information in a persona facet and that the collected user response data discloses received information from the web site. Paper No. 11, page 7. The Examiner must provide a basis in fact and/or technical reasoning for asserting that user response data which indicates that particular content was viewable to a user for a certain amount of time is user selectable information in a persona facet. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). Further, the user response data which indicates that particular content was viewable to a user for a certain amount of time is not selectable by the user to be exposed in an electronic transaction. Further, Koeppel does not disclose comparing a particular content viewed by a user with the collected user response data as asserted by the Examiner. Paper No. 11, page 7. Instead, the collected user response data includes an indication that particular content was viewable to a user for a certain amount of time. Column 12, lines 42-48. Therefore, Koeppel does not

disclose all of the limitations of claims 2, 14 and 26, and thus Koeppel does not anticipate claims 2, 14 and 26. M.P.E.P. §2131.

C. Claims 5, 17 and 29 are not anticipated by Koeppel.

Appellant respectfully asserts that Koeppel does not disclose "wherein if there are any differences between said information received from said web site and said user selectable information in said persona facet from said comparison then said information about said user stored in said database is updated" as recited in claim 5 and similarly in claims 17 and 29. The Examiner asserts that the collected user response data, as discussed in column 12, lines 41-60 of Koeppel, discloses information received from the web site and that a particular content viewed by the user, as discussed in column 12, lines 41-60 of Koeppel, discloses user selectable information in a persona facet. Paper No. 11, pages 8-9. Appellant respectfully traverses. As stated above, the Examiner must provide a basis in fact and/or technical reasoning for asserting that user response data which may indicate that particular content was viewable to a user for a certain amount of time discloses user selectable information in a persona facet. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). As the Examiner pointed out, in one embodiment, a persona facet may be characterized as an object representing various facets of an individual's personalities, traits or interests. Specification, page 1, lines 7-9. There is no language in Koeppel that discloses that user response data which may indicate that particular content was viewable to a user for a certain amount of time is an object or selectable information selected by the user to be exposed in an electronic transaction. Further, for at least the reasons stated above and in Appellant's Appeal Brief, Koeppel does not disclose comparing the user selectable information in the persona facet with the received information from the web site. Hence, Koeppel does not disclose updating information about the user stored in the database if there are any differences in the comparison. Therefore, Koeppel does not disclose all of the limitations of claims 5, 17 and 29, and thus Koeppel does not anticipate claims 5, 17 and 29. M.P.E.P. §2131.

D. Allowable subject matter.

The Examiner has objected to claims 8-12, 20-24 and 32-36 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Paper No. 11, page 2. Appellant appreciates the indication of allowability of claims 8-12, 20-24 and 32-36.

E. Other matters raised by the Examiner.

All other matters raised by the Examiner have been adequately addressed above and in Appellant's Appeal Brief and therefore will not be addressed herein for the sake of brevity.

II. CONCLUSION

For the reasons stated in Appellant's Appeal Brief and noted above, Appellant respectfully asserts that the rejection of claims 1-7, 13-19 and 25-31 is in error. Appellant respectfully requests reversal of the rejections and allowance of claims 1-36.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Appellant

By: 

Robert A. Voigt, Jr.

Reg. No. 47,159

Kelly K. Kordzik

Reg. No. 36,571

P.O. Box 50784
Dallas, Texas 75201
(512) 370-2832

AUSTIN_1\246870\1
7047-P379US



- 1 -

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

| | | |
|---------------------------------|---|---------------------------|
| In re Application of: | : | Before the Examiner: |
| David B. Kumhyr | : | Mary Cheung |
| Serial No. : 09/731,628 | : | Group Art Unit: 3621 |
| Filed: December 7, 2000 | : | |
| Title: USE OF PERSONA OBJECT IN | : | Intellectual Property Law |
| ELECTRONIC TRANSACTIONS | : | IBM Corporation |
| | : | 11400 Burnet Road |
| | : | Austin, Texas 78758 |

REPLY BRIEF TRANSMITTAL LETTER

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
APR 14 2004
GROUP 3600

Dear Sir:

Transmitted herewith are three (3) copies of the Reply Brief and an Acknowledgment Postcard.

CERTIFICATION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence (along with any item referred to as being enclosed herewith) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 6, 2004.

Serena Beller
Signature

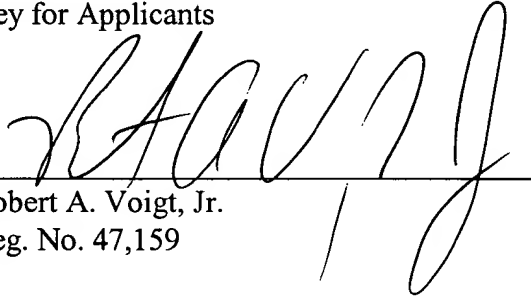
Serena Beller
(Printed name of person certifying)

- ☒ No fee is due, however, the Commissioner is hereby authorized to charge any insufficiency in fees associated with this communication, or credit any overpayment, to Deposit Account No. 09-0464 (AUS9-2000-0591-US1). **A duplicate copy of this transmittal letter is attached.**

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorney for Applicants

By: 
Robert A. Voigt, Jr.
Reg. No. 47,159

P.O. Box 50784
Dallas, Texas 75201
(512) 370-2832

AUSTIN_1\247491\1
7047-P379US